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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/549,957	09/16/2005	Olivier Larcher	1022702-000275	1281
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EXAMINER				
NGUYEN, CAM N				
ART UNIT		PAPER NUMBER		
1793				
NOTIFICATION DATE		DELIVERY MODE		
12/29/2008		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ADIPFDD@bipc.com

Office Action Summary

Application No.

10/549,957

Applicant(s)

LARCHER ET AL.

Examiner

Cam N. Nguyen

Art Unit

1793

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10/23/08 (an election).
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 22-42 is/are pending in the application.
4a) Of the above claim(s) 32-40 and 42 is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 22-31 and 41 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB-08)
Paper No(s)/Mail Date _____
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

DETAILED ACTION

Response to Election/Restrictions

1. Applicant's election with traverse of Group I, claims 22-31 & 41, in the reply filed on 10/23/08 is acknowledged. The traversal is on the ground(s) that "Groups I-III are closely related and that a proper search of any of the claims should, by necessity, require a proper search o the others, etc." This is not found persuasive because for the reasons as indicated in the restriction requirement. Further, if the elected product claims are found allowable, the process claims will automatically rejoined in accordance with rule as set forth in the MPEP. There would be no point for Examiner to search and examining the process claims at the same time since their patentability are determine by the product claims. Thus, for purpose of search and examination on the merits, the claims must be restricted.

The requirement is still deemed proper and is therefore made FINAL.

2. Claims 32-40 & 42 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention(s), there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 10/23/08.

Claim Objections

3. Claims 26 & 27 are objected to because of the following informalities:
- A. In claim 26, line 2, "optionally" should be changed to --preferably--.

- B. In claim 27, line 2, "optionally" should be changed to --preferably--.

Appropriate correction is required.

Claim Rejections - 35 USC § 112 (Second Paragraph)

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 28-30 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 28-30 appear to be broader than the scope of the claim 22 with respect to the temperature. Claim 22 recites a maximum reducibility temperature of at most 500°C, whereas claims 28-30 recite a calcination temperature of 900°C and 1000°C, which is outside of the above temperature range. Thus, render the claim vague and indefinite.

Claim Rejections - 35 USC § 102(b)

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 22-31 & 41 are rejected under 35 U.S.C. 102(b) as being anticipated by Aubert et al., hereinafter referred to as "Aubert '306", (US Pat. 6,214,306 B1).

Aubert '306 appears to teach the claimed composition having the claimed properties, including temperature, surface area, and zirconium oxide content (see col. 10, claim 1- col. 16, claim 84).

There is no patentable distinction seen between the claimed composition and that disclosed by the reference. Thus, the claims are anticipated by Aubert '306.

Citations

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. All references are cited for related art. See PTO-892 Form prepared.

Conclusion

7. Claims 22-42 are pending. Claims 22-31 & 41 are rejected. Claims 32-40 & 42 are withdrawn due to nonelected (distinct) invention(s). No claims are allowed.

Contacts

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Primary Examiner CAM N. NGUYEN, whose telephone number is 571-272-1357. The examiner can normally be reached on M-F, 9:00 AM - 6:30 PM, at alternative work site.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stanley Silverman, can be reached on 571-272-1358. The fax phone number for the organization where this application or proceeding is assigned is 571-272-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Cam N. Nguyen/

Primary Examiner

Art Unit: 1793

/C. N. N./

December 22, 2008